IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7318 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRANTIJ KELVANI MANDAL

Versus

STATE OF GUJARAT

Appearance:

MS Kalpana Brahmbhatt for Ms VASUBEN P SHAH for Petitioner

MR M.A.BUKJHARIA, AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 14/03/2000

ORAL JUDGEMENT

This petition is filed for an appropriate writ, order or direction in terms of para 17 which reads as under:

"(a) Be pleased to admit this petition

(b) Be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order against the respondents directing them to pay the grant in aid to the petitioner's school on the basis of the revised pay scale required to be paid to the teachers under the pay scale that may be further revised in future and further forbearing them from taking any steps against the petitioner's school by detaining any grant or by withdrawing the approval granted to the school on account of non compliance with the direction contained in the letter at Annexure `E''

(c) x x x x

(d) Be pleased to grant an interim relief directing the respondents to pay the additional grant to the petitioner's school on the expenditure of the salary required to be paid under the new pay scale with effect from 1.4.87 till to date and hereinafter pending hearing and final, disposal of this petition.

(e) Be pleased to grant such other and further reliefs and pass such other and further orders as this Honourable court may think just, fit and proper.

(f) Be pleased to allow this petition with costs."

Pursuant to Rule issued by this Court, an affidavit in reply is filed by the Deputy Director of Education. In para 5 thereof, it was stated as under :

"5. With reference to paras 1 and 2 of the petition, I say that the calculation of the grant in aid which is to be paid in a financial year is made by taking into account the income and expenditure of the grant in aid school for the previous year. Necessary orders have been issued by the education department of the Government of Gujarat vide resolution No. KHPSH/1087/4500/Ch, dated 25th September 1987, to pay the salary as per the revised pay scales effective from 1.1`.1986 in cash from 1.4.1987. Accordingly,

> the expenditure on account of these revised pay scales which is payable from 1.4.1987, has to be incurred in the financial year 1987-88 and so the difference of grant in aid is also payable at the time of payment of grant in aid for the year 1988-89. Thus, if the management of the institution has incurred the expenditure in the year 1987-88, then at the time of making payment of the grant for the current year, the additional grant for the difference of pay etc. will be paid. Therefore, the representation made by the petitioner that the respondents have failed in carrying out their promise to pay the difference of pay, is not correct and the same is one sided and in contravention of the provisions of the grant in aid rules."

In view of the affidavit in reply filed by the authorities , in my opinion, the petition does not survive and is accordingly disposed of. Rule discharged. No order as to costs.

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parekh